

Adopted	Rejected
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COMMITTEE REPORT

YES:	13
NO:	0

MR. SPEAKER:

Your Committee on **Insurance, Corporations and Small Business**, to which was referred Senate Bill 484, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.1-2004,
- 4 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2004]: Sec. 3.5. When used in this article, the term "adjusted
- 6 gross income" shall mean the following:
- 7 (a) In the case of all individuals, "adjusted gross income" (as defined
- 8 in Section 62 of the Internal Revenue Code), modified as follows:
- 9 (1) Subtract income that is exempt from taxation under this article
- 10 by the Constitution and statutes of the United States.
- 11 (2) Add an amount equal to any deduction or deductions allowed
- 12 or allowable pursuant to Section 62 of the Internal Revenue Code
- 13 for taxes based on or measured by income and levied at the state
- 14 level by any state of the United States.
- 15 (3) Subtract one thousand dollars (\$1,000), or in the case of a
- 16 joint return filed by a husband and wife, subtract for each spouse

1 one thousand dollars (\$1,000).

2 (4) Subtract one thousand dollars (\$1,000) for:

3 (A) each of the exemptions provided by Section 151(c) of the
4 Internal Revenue Code;

5 (B) each additional amount allowable under Section 63(f) of the
6 Internal Revenue Code; and

7 (C) the spouse of the taxpayer if a separate return is made by
8 the taxpayer and if the spouse, for the calendar year in which
9 the taxable year of the taxpayer begins, has no gross income
10 and is not the dependent of another taxpayer.

11 (5) Subtract:

12 (A) one thousand five hundred dollars (\$1,500) for each of the
13 exemptions allowed under Section 151(c)(1)(B) of the Internal
14 Revenue Code for taxable years beginning after December 31,
15 1996; and

16 (B) five hundred dollars (\$500) for each additional amount
17 allowable under Section 63(f)(1) of the Internal Revenue Code
18 if the adjusted gross income of the taxpayer, or the taxpayer
19 and the taxpayer's spouse in the case of a joint return, is less
20 than forty thousand dollars (\$40,000).

21 This amount is in addition to the amount subtracted under
22 subdivision (4).

23 (6) Subtract an amount equal to the lesser of:

24 (A) that part of the individual's adjusted gross income (as
25 defined in Section 62 of the Internal Revenue Code) for that
26 taxable year that is subject to a tax that is imposed by a political
27 subdivision of another state and that is imposed on or measured
28 by income; or

29 (B) two thousand dollars (\$2,000).

30 (7) Add an amount equal to the total capital gain portion of a lump
31 sum distribution (as defined in Section 402(e)(4)(D) of the
32 Internal Revenue Code) if the lump sum distribution is received by
33 the individual during the taxable year and if the capital gain portion
34 of the distribution is taxed in the manner provided in Section 402
35 of the Internal Revenue Code.

36 (8) Subtract any amounts included in federal adjusted gross
37 income under Section 111 of the Internal Revenue Code as a

- 1 recovery of items previously deducted as an itemized deduction
2 from adjusted gross income.
- 3 (9) Subtract any amounts included in federal adjusted gross
4 income under the Internal Revenue Code which amounts were
5 received by the individual as supplemental railroad retirement
6 annuities under 45 U.S.C. 231 and which are not deductible under
7 subdivision (1).
- 8 (10) Add an amount equal to the deduction allowed under Section
9 221 of the Internal Revenue Code for married couples filing joint
10 returns if the taxable year began before January 1, 1987.
- 11 (11) Add an amount equal to the interest excluded from federal
12 gross income by the individual for the taxable year under Section
13 128 of the Internal Revenue Code if the taxable year began before
14 January 1, 1985.
- 15 (12) Subtract an amount equal to the amount of federal Social
16 Security and Railroad Retirement benefits included in a taxpayer's
17 federal gross income by Section 86 of the Internal Revenue Code.
- 18 (13) In the case of a nonresident taxpayer or a resident taxpayer
19 residing in Indiana for a period of less than the taxpayer's entire
20 taxable year, the total amount of the deductions allowed pursuant
21 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount
22 which bears the same ratio to the total as the taxpayer's income
23 taxable in Indiana bears to the taxpayer's total income.
- 24 (14) In the case of an individual who is a recipient of assistance
25 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or
26 IC 12-15-7, subtract an amount equal to that portion of the
27 individual's adjusted gross income with respect to which the
28 individual is not allowed under federal law to retain an amount to
29 pay state and local income taxes.
- 30 (15) In the case of an eligible individual, subtract the amount of a
31 Holocaust victim's settlement payment included in the individual's
32 federal adjusted gross income.
- 33 (16) For taxable years beginning after December 31, 1999,
34 subtract an amount equal to the portion of any premiums paid
35 during the taxable year by the taxpayer for a qualified long term
36 care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the
37 taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) In the case of an individual who is employed by a taxpayer that claims a credit under IC 6-3.1-25-9, add the amount of the individual's eligible benefits as provided in IC 6-3.1-25-15(a).

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal

1 Revenue Code.

2 (5) Add or subtract the amount necessary to make the adjusted
3 gross income of any taxpayer that owns property for which bonus
4 depreciation was allowed in the current taxable year or in an earlier
5 taxable year equal to the amount of adjusted gross income that
6 would have been computed had an election not been made under
7 Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply
8 bonus depreciation to the property in the year that it was placed in
9 service.

10 (c) In the case of life insurance companies (as defined in Section
11 816(a) of the Internal Revenue Code) that are organized under Indiana
12 law, the same as "life insurance company taxable income" (as defined
13 in Section 801 of the Internal Revenue Code), adjusted as follows:

14 (1) Subtract income that is exempt from taxation under this article
15 by the Constitution and statutes of the United States.

16 (2) Add an amount equal to any deduction allowed or allowable
17 under Section 170 of the Internal Revenue Code.

18 (3) Add an amount equal to a deduction allowed or allowable
19 under Section 805 or Section 831(c) of the Internal Revenue Code
20 for taxes based on or measured by income and levied at the state
21 level by any state.

22 (4) Subtract an amount equal to the amount included in the
23 company's taxable income under Section 78 of the Internal
24 Revenue Code.

25 (5) Add or subtract the amount necessary to make the adjusted
26 gross income of any taxpayer that owns property for which bonus
27 depreciation was allowed in the current taxable year or in an earlier
28 taxable year equal to the amount of adjusted gross income that
29 would have been computed had an election not been made under
30 Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply
31 bonus depreciation to the property in the year that it was placed in
32 service.

33 (d) In the case of insurance companies subject to tax under Section
34 831 of the Internal Revenue Code and organized under Indiana law, the
35 same as "taxable income" (as defined in Section 832 of the Internal
36 Revenue Code), adjusted as follows:

37 (1) Subtract income that is exempt from taxation under this article

- 1 by the Constitution and statutes of the United States.
- 2 (2) Add an amount equal to any deduction allowed or allowable
- 3 under Section 170 of the Internal Revenue Code.
- 4 (3) Add an amount equal to a deduction allowed or allowable
- 5 under Section 805 or Section 831(c) of the Internal Revenue Code
- 6 for taxes based on or measured by income and levied at the state
- 7 level by any state.
- 8 (4) Subtract an amount equal to the amount included in the
- 9 company's taxable income under Section 78 of the Internal
- 10 Revenue Code.
- 11 (5) Add or subtract the amount necessary to make the adjusted
- 12 gross income of any taxpayer that owns property for which bonus
- 13 depreciation was allowed in the current taxable year or in an earlier
- 14 taxable year equal to the amount of adjusted gross income that
- 15 would have been computed had an election not been made under
- 16 Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply
- 17 bonus depreciation to the property in the year that it was placed in
- 18 service.
- 19 (e) In the case of trusts and estates, "taxable income" (as defined for
- 20 trusts and estates in Section 641(b) of the Internal Revenue Code)
- 21 adjusted as follows:
- 22 (1) Subtract income that is exempt from taxation under this article
- 23 by the Constitution and statutes of the United States.
- 24 (2) Subtract an amount equal to the amount of a September 11
- 25 terrorist attack settlement payment included in the federal adjusted
- 26 gross income of the estate of a victim of the September 11
- 27 terrorist attack or a trust to the extent the trust benefits a victim
- 28 of the September 11 terrorist attack.
- 29 (3) Add or subtract the amount necessary to make the adjusted
- 30 gross income of any taxpayer that owns property for which bonus
- 31 depreciation was allowed in the current taxable year or in an earlier
- 32 taxable year equal to the amount of adjusted gross income that
- 33 would have been computed had an election not been made under
- 34 Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply
- 35 bonus depreciation to the property in the year that it was placed in
- 36 service.
- 37 (f) This subsection applies only to the extent that an individual paid

property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP THREE amount and two thousand five hundred dollars (\$2,500).

SECTION 2. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 25. Credit for Offering Health Benefit Plans

Sec. 1. This chapter applies to an employer that:

- (1) employs at least ten (10) full-time employees who are located in Indiana; and
- (2) does not offer coverage for health care services under a self-funded health benefit plan that complies with the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

Sec. 2. As used in this chapter, "eligible benefits" means, with respect to an employee of a taxpayer that claims a credit under section 9 of this chapter, the total amount of health insurance premiums withheld from the employee's federal adjusted gross income (as defined in Section 62 of the Internal Revenue Code) during a taxable year under the health benefit plan offered by the employer.

Sec. 3. As used in this chapter, "eligible taxpayer" means a

1 taxpayer that did not provide health insurance to the taxpayer's
 2 employees in the taxable year immediately preceding the taxable
 3 year for which the taxpayer claims a credit under this chapter.

4 Sec. 4. As used in this chapter, "full-time employee" means an
 5 employee who is normally scheduled to work at least thirty (30)
 6 hours each week.

7 Sec. 5. (a) As used in this chapter, "health benefit plan" means
 8 coverage for health care services provided under:

9 (1) an insurance policy that provides one (1) or more of the
 10 types of insurance described in Class 1(b) or Class 2(a) of
 11 IC 27-1-5-1; or

12 (2) a contract with a health maintenance organization for
 13 coverage of basic health care services under IC 27-13;

14 that satisfies the requirements of Section 125 of the Internal
 15 Revenue Code.

16 (b) The term does not include the following:

17 (1) Accident only, credit, dental, vision, Medicare
 18 supplement, long term care, or disability income insurance.

19 (2) Coverage issued as a supplement to liability insurance.

20 (3) Automobile medical payment insurance.

21 (4) A specified disease policy issued as an individual policy.

22 (5) A limited benefit health insurance policy issued as an
 23 individual policy.

24 (6) A short term insurance plan that:

25 (A) may not be renewed; and

26 (B) has a duration of not more than six (6) months.

27 (7) A policy that provides a stipulated daily, weekly, or
 28 monthly payment to an insured during hospital confinement,
 29 without regard to the actual expense of the confinement.

30 (8) Worker's compensation or similar insurance.

31 (9) A student health insurance policy.

32 Sec. 6. As used in this chapter, "pass through entity" means:

33 (1) a corporation that is exempt from the adjusted gross
 34 income tax under IC 6-3-2-2.8(2);

35 (2) a partnership;

1 (3) a limited liability company; or

2 (4) a limited liability partnership.

3 Sec. 7. As used in this chapter, "state tax liability" means a
4 taxpayer's total tax liability that is incurred under:

5 (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);

6 (2) IC 6-5.5 (financial institutions tax); and

7 (3) IC 27-1-18-2 (insurance premiums tax);

8 as computed after the application of the credits that under
9 IC 6-3.1-1-2 are to be applied before the credit provided by this
10 chapter.

11 Sec. 8. As used in this chapter, "taxpayer" means an individual
12 or entity that:

13 (1) has state tax liability; and

14 (2) employs at least ten (10) full-time employees who are
15 located in Indiana.

16 Sec. 9. (a) An eligible taxpayer that, after December 31, 2004,
17 makes health insurance available to the eligible taxpayer's
18 employees and their dependents through at least one (1) health
19 benefit plan is entitled to a credit against the taxpayer's state tax
20 liability for the first two (2) taxable years in which the taxpayer
21 makes the health benefit plan available if the following
22 requirements are met:

23 (1) An employee's participation in the health benefit plan is
24 at the employee's election.

25 (2) If an employee chooses to participate in the health
26 benefit plan, the employee may pay the employee's share of
27 the cost of the plan using a wage assignment authorized
28 under IC 22-2-6-2.

29 (b) The credit allowed under this chapter equals the lesser of:

30 (1) two thousand five hundred dollars (\$2,500); or

31 (2) fifty dollars (\$50) multiplied by the number of employees
32 enrolled in the health benefit plan during the taxable year.

33 Sec. 10. (a) An employer may pay or provide reimbursement
34 for all or part of the cost of a health benefit plan made available
35 under section 9 of this chapter.

(b) An employer that pays or provides reimbursement under subsection (a) shall pay or provide reimbursement on an equal basis for all full-time employees who elect to participate in the health benefit plan.

Sec. 11. (a) If the amount determined under section 9 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback.

(b) A taxpayer is not entitled to a refund of any unused credit.

Sec. 12. If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 13. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer must submit to the department all information that the department determines is necessary to calculate the credit provided by this chapter and to determine the taxpayer's eligibility for the credit.

Sec. 14. (a) A taxpayer claiming a credit under this chapter shall continue to make health insurance available to the taxpayer's employees through a health benefit plan for at least twenty-four (24) consecutive months beginning on the day after the last day of the taxable year in which the taxpayer first offers the health benefit plan.

(b) If the taxpayer terminates the health benefit plan before

1 the expiration of the period required under subsection (a), the
 2 taxpayer shall repay the department the amount of the credit
 3 received under section 9 of this chapter.

4 **Sec. 15. (a) An employee of a taxpayer that claims a credit**
 5 **under this chapter shall include in the employee's state adjusted**
 6 **gross income (as defined in IC 6-3-1-3.5(a)) the employee's**
 7 **eligible benefits for:**

8 (1) the first taxable year in which the taxpayer offers the
 9 health benefit plan; and

10 (2) the taxable year immediately following the first taxable
 11 year in which the taxpayer offers the health benefit plan.

12 An employee's eligible benefits are not included in the employee's
 13 state adjusted gross income (as defined in IC 6-3-1-3.5(a)) for the
 14 taxable years following the taxable year described in subdivision
 15 (2).

16 (b) A taxpayer that claims a credit under this chapter shall
 17 notify each of the taxpayer's employees of the amount included in
 18 the employee's state adjusted gross income (as defined in
 19 IC 6-3-1-3.5(a)) under subsection (a) at the same time the
 20 taxpayer provides the employee with the employee's W-2 federal
 21 income tax withholding statement for the taxable year."

22 Page 2, after line 37, begin a new paragraph and insert:

23 "SECTION 4. [EFFECTIVE JULY 1, 2004] IC 6-3-1-3.5, as
 24 amended by this act, applies only to taxable years beginning after
 25 December 31, 2004.

26 SECTION 5. [EFFECTIVE JULY 1, 2004] IC 6-3.1-25, as added
 27 by this act, applies only to taxable years that begin after
 28 December 31, 2004."

29 Renumber all SECTIONS consecutively.

(Reference is to SB 484 as printed January 30, 2004.)

and when so amended that said bill do pass.

Representative Fry